

REMARKS/ARGUMENTS

This Amendment addresses the issues raised in the Official Action of February 23, 2007, a final rejection, and accompanies a Request for Continued Examination (RCE). This amendment was prepared following a telephone interview on June 28, 2007 between Examiners Ahmed and Sheikh and the undersigned. According to my recollection and notes, the remarks that follow and the above claim amendments were discussed during the course of this interview.

Claims 18-39 are pending and active subsequent to entry of this Amendment.

The sole issue raised in the above-noted Official Action is the rejection of all claims as being anticipated by U.S. patent 4,994,264 to Verdon et al.

The claims as set out above are directed to a process for preparing a product and not the product itself which means that although the components used in the process are important, the particular operational steps in the claimed process are equally important. The process disclosed in the Verdon reference in the Example starts with a slurry formed of ethanol, water and a xanthan gum. To this slurry are added the components listed in the table bridging columns 4 and 5 of the reference. These include two fatty phase components, namely octylpalmitate and polyglyceryl 3-diisostearate.

It is clear that in Verdon the fatty components are indeed present in a phase separate from the slurry whereas in the present application the fatty components are in the slurry and the powdery, coloring components are in the coloring powders phase. This fact alone overcomes the anticipation rejection because the procedures described in the Verdon patent are not identical to those claimed in the present application, as explained in more detail below.

The subject of the Verdon reference is clearly "press molded" cosmetic compositions. This will be apparent from the title, the abstract and each of the claims which include the term "press molded". It is also present in the working example as well as the "compression molding device" mentioned in column 4, lines 33-35. In contrast, the present invention does **not** use compression molding but in fact relates to a *non*-pressed powder – this is based on the discussion found on page 1, lines 19-21 as to non-pressed molded and powder on page 7, line 18 and other passages as well.

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Claim 18 is amended to include specific recitation of a non-pressed powder. This limitation, in effect, excludes a pressing step that might be carried out otherwise in the procedure even though the claim is "open" to the addition of further steps by the presence of the term "comprises" in line 2 of claim 18.

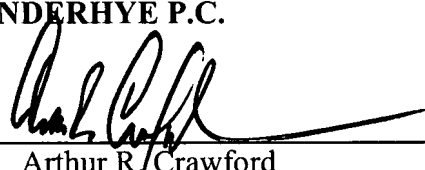
In a second set of claims (29 - 39) the process of making the non-pressed power make-up cosmetic is defined as "consisting of..." the recited steps. Claims 30 - 39 correspond to claims 19-28, respectively but depend from new claim 29.

Favorable consideration of the claims now before the examiner is requested.

Respectfully submitted,

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